

NITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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Hearing Date: 08/19/2014  
Hearing Time: 10:30 a.m.  
Hearing Location: Utica, NY

**In re:**  
**JOHN HALPIN,**

Debtor(s).

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Case No. **14-61006**  
Chapter 13

### **TRUSTEE'S OBJECTION TO CONFIRMATION OF PLAN**

The Trustee objects to confirmation of the plan, filed 06/12/2014 (ECF#2), in the above named debtor(s) case for the following reason:

#### **I. FAILURE TO NOTICE CREDITORS**

That the debtor has failed to list Albany County as a creditor on the mailing matrix or in the schedules. The debtor lists Albany County in the plan to be paid in full at 12% interest. However, upon information and belief, the debt would be paid at a sale. The creditor should be noticed as a liability.

#### **II. FAILURE TO LIST PROPERTY TO BE SOLD**

That the plan simply states "Debtor owns two houses intends to sell one." It appears that the debtor should specifically state what property will be sold and a deadline for the sale. Upon information and belief, the debtor intends to sell 1093 County Highway 123. Further, if the debtor intends to pay the creditors on this property at a sale, the plan should specifically state that in the section regarding the sale of property. Otherwise, the plan will be unfeasible.

#### **III. SHOULD LIST MINIMUM REQUIREMENT/LIQUIDATION**

That the debtor's plan proposes a 90% dividend, however, he stipulated to a 100% dividend at the meeting of creditors so any amended plan should reflect a 100% dividend. Further, the non-exempt equity is at least \$108,553 from the 2087-2089 Central Ave property (\$67,116) and the undeveloped land (\$32,600) and personal property (\$8,837). The debtor has

failed to claim any exemptions except the homestead. Therefore, the requirements for completion should be 100% dividend or \$108,553 to unsecured creditors, whichever is greater.

#### **IV. FEASIBILITY**

That the debtor proposes to pay in \$7,200 into the plan. The debtor indicates that a sale will occur, however, there are no proceeds to be paid in. Therefore, the plan is unfeasible since mortgage arrears for Trustco Bank and KeyBank are not included in the plan. They filed claims for \$21,794.88 and \$1,470.62, respectively. At this point, the debtor needs to pay in \$50,550 to provide a 100% dividend and pay the mortgage arrears that were not listed. The plan payments need to be at least \$875 per month. Further, the bar date has not yet passed and there is an additional \$15,000 of possible claims that could file.

WHEREFORE, Trustee respectfully requests that Confirmation be denied and for such further relief as the Court deems appropriate.

Dated: Syracuse, New York  
August 7, 2014

/s/ Mark W. Swimelar  
Mark W. Swimelar, Chapter 13 Trustee  
Bar Roll # 506340  
250 S. Clinton Street, #203  
Syracuse, New York 13202  
315-471-1499  
trustee@cnytrustee.com

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**CERTIFICATE OF SERVICE**

**Amy E. Militi** certifies that she is, and at all times hereinafter mentioned was, an employee in the office of the Standing Chapter 13 Trustee and over the age of 18 years.

That on August 7, 2014, I served the attached Objection to Confirmation on the below named by depositing a copy in a post-paid, properly addressed wrapper under the custody of the United States Post Office in a depository within the State of New York.

JOHN HALPIN  
1093 COUNTY HIGHWAY 123  
MAYFIELD, NY 12117

And that she electronically filed the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system which sent notification of such filing to the following:

Office of the U.S. Trustee  
USTPRegion02.UT.ECF@usdoj.gov

RICHARD CROAK ESQ

/s/ Amy E. Militi  
Amy E. Militi